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Customer Number

Patent  
Case No.: 56147US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: MALLO, RICHARD A.

Application No.: 09/771054

Confirmation No.: 7236

Filed: January 26, 2001

Title: SILYLATED POLYURETHANE-UREA COMPOSITIONS FOR  
USE IN COSMETIC APPLICATIONS

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]	
I hereby certify that this correspondence is being:	
<input type="checkbox"/>	deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
<input type="checkbox"/>	transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at 571-273-8300.
Date <i>October 11, 2006</i>	Signed by: <i>J. Hays</i> Jrina Hays

Dear Sir:

This is in response to the Office Action mailed September 13, 2006.

The standards for supporting a restriction requirement between related product or process inventions is set forth in MPEP § 806.05(j), which requires a showing of two-way distinctiveness with other reasoning. An example showing if the inventions are mutually exclusive, are nonobvious variants and the invention as claimed are not capable of being used together or have materially different, e.g. mode of operation or effect. It is submitted that this has not been shown in the present restriction requirement.

If there is this determination coupled with an explanation of the undue burden the method for making an election of species restriction is set forth in 809.2 where the examiner is required to clearly identify each disclosed species. However the instant restriction merely indicate that each specific possible composition is a potential independent and distinct species.

Therefore applicant elect, with traverse, the species identified in the election of May 6, 2002 in the parent case further limited to the reaction product of polycaprolactone diol and IPDI, where the cosmetic form is nail care, from claim 41, and the excipient are pigments from claim 40.

All pending claims correspond to this species except claims 37 and 42.

It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723. The Examiner is invited to contact the undersigned at the indicated telephone number with questions that can be resolved with a simple teleconference.

Respectfully submitted,

October 11, 2006  
Date

By: 

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